

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JESSICA LYNN GRIECO,

Petitioner,

: Case No. 3:21-cv-193

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

TERI BALDAUF, Warden,
Ohio Reformatory for Women,

:

Respondent.

**DECISION AND ORDER DENYING SECOND MOTION FOR
EVIDENTIARY HEARING**

This habeas corpus case is before the Court on the Petitioner's second Motion for an Evidentiary Hearing (ECF No. 18). In denying her first Motion for Evidentiary Hearing (ECF No. 14), the Court wrote:

However, the Supreme Court of the United States has interpreted the AEDPA to prohibit evidentiary hearings in § 2254 cases until and unless the petitioner has established under 28 U.S.C. § 2254(d)(2) that the state court's decision is based on an unreasonable determination of the facts in light of evidence presented to those state courts. *Cullen v. Pinholster*, 563 U.S. 170 (2011).

Accordingly, Petitioner's Motion for Evidentiary hearing is DENIED without prejudice to its renewal if the requirements of *Pinholster* are met.

(Order, ECF No. 17). Although she cites *Pinholster* in her current motion, Petitioner has in no way yet satisfied the *Pinholster* standard of showing that the state courts made unreasonable

determinations of fact based on the evidence before them. Although the Court has ordered production of the State Court Record, that has not yet occurred and is not due until September 20, 2021 (ECF No. 9). The Court cannot possibly evaluate the state courts' determinations of fact until the record has been filed.

Petitioner's second Motion for Evidentiary Hearing is therefore DENIED.

August 13, 2021.

s/ *Michael R. Merz*
United States Magistrate Judge